

August 20, 2003

**MEMORANDUM**

**PIM #03-02**

TO: District Directors  
Environmental Health Managers  
Division of Food and Environmental Services Staff

FROM: Gary L. Hagy, Director  
Division of Food and Environmental Services

SUBJECT: Temporary Food Establishment Policy

This PIM addresses standards for temporary food establishments. It addresses standards that should be used when evaluating and inspecting temporary food establishments.

Please insert this document in your PIM manual and distribute copies to all persons in your district working in your foodservice protection program. Please note that the effective date is August 20, 2003.

If you have any questions, please contact the food consultants or me.

Attachment

<b>Program:</b>	Foodservice Protection
<b>Subject:</b>	Temporary Food Establishment Policy
<b>Objective:</b>	To promote uniformity of food protection standards at fairs and festivals held throughout the Commonwealth.
<b>Authority:</b>	Code of Virginia 35.1, Chapter 2, Section 35.1-11 et seq. in conformity with provisions of Chapter 1.1:1 of Title 9, Code of Virginia.
<b>Public Health Rationale:</b>	<p>The popularity of outdoor events is a cornerstone of the economy of Virginia, as evidenced by the thousands of residents and tourists attending hundreds of these functions across the Commonwealth each year. However, the potential for disease transmission increases where large numbers of persons gather, consume food prepared in temporary facilities, drink water from nonpermanent water supplies, and dispose of sewage in temporary facilities. It is, therefore essential that strict public health controls be implemented to protect the health and safety of the citizens and guests of the Commonwealth.</p>
<b>Responsibility:</b>	<p>The State Health Commissioner, hereafter referred to as the commissioner, is the chief executive officer of the State Department of Health. The commissioner has the authority to act within the scope of the regulations promulgated by the State Board of Health and for the board when it is not in session (12 VAC 5-421-40).</p> <p>The district or local health director, hereafter referred to as the director, is responsible for the permitting and inspection of food establishments (including temporary food establishments). located within the director's district and for assuring compliance with the Food Regulations. The director is the duly designated agent of the commissioner (12 VAC 5-421-40).</p>
<b>Purpose:</b>	<p>The purpose of this policy is to assist the department in the following:</p> <p>A. To interpret the provisions of the <i>Food Regulations</i> applicable to temporary food establishments so as to standardize agency interpretation.</p>

- B. To enforce uniformly all applicable regulations governing temporary food establishments so as to control health risks.
- C. To control, by permit action, temporary food establishments as defined in the *Food Regulations* under definitions (page I-12).
- D. To identify temporary food establishments within the Commonwealth and their respective event coordinators and support personnel.
- E. To educate temporary food establishment coordinators and support personnel in regard to the *Food Regulations* and policy standards regarding these events.
- F. To review and approve applications for temporary food establishments prior to the date of the event (12 VAC 5-421-3670).
- G. To identify by inspection all violations at temporary food establishments and associated food concessions as they relate to the *Food Regulations* and initiate immediate corrective action (12 VAC-5-421-3800, 421-3860 & 3870).

**Administrative Procedures:**

- A. Permit
  - 1. Persons responsible for the operation of temporary food establishments are required to obtain and complete a health department application prior to issuance of a temporary food establishment permit. Separate permits are required for each temporary food establishment (12 VAC 5-421-3680).
  - 2. Application forms shall be submitted to the health department at least thirty days prior to the event (12 VAC 5-421-3670).
  - 3. A health department permit is not transferable to another party and shall be posted in the facility. A permit is valid only for the specified date, time, and location (12 VAC 5-421-3750-60).
  - 4. Food to be sold or served should be approved in advance by the local health department and shall be in compliance with the standards set forth in Section VII.A. of the Temporary Food Establishment Policy. Only those food items listed on the application and approved by the local health department may be sold or served.

5. Temporary food establishments shall not operate until a permit is issued (12 VAC 5-421-3660).

**B. Application Review**

1. Coordinator's Check List for a Temporary Food Event Form EHS TR-1 may be used in the processing of the temporary food establishment permit application.
2. Completed Application for Temporary Food Establishments and Temporary Food Establishment Inspection Report Forms EHS TR-3 or LHS 152 shall be kept on file in the department for three years after the event.
3. If the application is approved, the applicant shall be notified of such, pending final field inspection for compliance. When compliance is determined, a permit shall be issued.
4. If the permit application is not approved, the applicant shall be notified of reasons for denial (12 VAC 5-421-3730).

**C. Inspection**

1. No temporary food establishment shall open for business until a field inspection has been completed and a permit is issued unless otherwise authorized by the local health department (12 VAC 5-421-3660).
2. The number and frequency of inspections of the temporary food establishment shall be determined by the regulatory authority (12 VAC 5-421-3800).
3. All inspection findings shall be recorded either on the Temporary Food Establishment Inspection Report Form EHS TR-3 or LHS 152. The operator is requested to post a copy of each report in the facility during the event.
4. The department shall review any previous inspection reports prior to conducting an inspection. Uncorrected violations from previous inspections shall be so identified on the inspection reports. The operator shall be advised that continuing or flagrant violations are grounds for denial or revocation of the permit. All violations shall be corrected within a maximum of twenty-four hours or the permit shall be suspended (12 VAC 5-421-3870). The department shall conduct a follow-up visit to determine compliance. If violations are not corrected the establishment shall immediately cease food service operations until authorized to resume by the director or his or her designee.

**D. Enforcement**

When the inspection reveals the presence of substantial or imminent health hazards, including, but not limited to, inadequate facilities to maintain required temperatures for food, the presence of home-prepared food, contaminated or adulterated food, ill employees, or continuing/flagrant sanitary violations, the temporary food establishment shall immediately cease food service operations. Operations shall not resume until all corrections have been implemented and authorization has been granted by the director or his or her designee (12 VAC 5-421-3910).

**VII. Standards**

**A. Personal Cleanliness and Hygiene**

- a. Food employees shall keep their hands and exposed portions of their arms clean by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean, running water (5-421-130 and 140).
- b. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. While preparing food, food employees may not wear artificial fingernails or fingernail decorations other than nail polish (5-421-190).
- c. While preparing food, food employees may not wear jewelry on their arms and hands. This section does not apply to a plain ring such as a wedding ring (5-421-200).
- d. Food employees shall wear clean outer clothing to prevent contamination of food equipment, utensils, linens, and single-service and single-use articles (5-421-210).
- e. An employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food, clean equipment, utensils, and linens, unwrapped single-service and single-use articles; or other items needing protection cannot result (5-421-220).
- f. Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food, clean equipment, utensils, and linens; or single-service or single-use articles (5-421-230).
- g. Food employees shall wear hair restraints, such as hats, hair coverings or nets, beard restraints, and clothing that covers

body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens, and unwrapped single-service and single-use articles (5-421-240).

- h. Food employees may not care for or handle animals that may be present such as patrol dogs, support animals, or pets (5-421-250).

**B. Food and beverages**

**1. Source**

- a. All food products including beverages, ice and water shall come from an approved source that complies with law. Food prepared in a private home may not be used or offered for human consumption (5-421-270).
- b. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law and be obtained pasteurized. Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR Part 135 Frozen Desserts (5-421-290). (5-421-370).
- c. Fish that are received for sale or service shall be commercially and legally caught or harvested (5-421-300).
- d. All shellfish, such as oysters, clams, mussels, shall be identified by the Interstate Certified Shellfish Shippers List Certification Number (5-421-310).
- e. Shell stock shall be obtained in containers bearing the legible source identification tags or labels that are affixed by the harvester (5-421-410).
- f. Molluscan shellfish may not be removed from the container in which they were received other than immediately before sale or preparation for service (5-421-430).

**2. Transportation**

Food shall be transported in a sanitary manner which protects it from contamination. The temperature of potentially hazardous foods shall be maintained at 41° or below or at 140° or above at all times except as otherwise provided in the regulations. Frozen food shall be received and maintained frozen (5-421-340).

3. Storage

- a. All food products, storage containers, single service items, kitchenware and equipment and utensils shall be stored a minimum of six (6). inches above the ground level or floor surface, except as provided in the regulations (5-421-610). As an alternative, pallets and empty boxes may serve as storage racks.
- b. Commercially packaged foods, canned foods, and bottled containers may be stored on drained ice. Beverage containers are not to be submerged in ice. Packaged food (such as sandwiches). may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water (5-421-530).
- c. Equipment for cooling and heating food, and holding cold food, shall be sufficient in number and capacity and capable of providing food temperature as specified under Part III of the regulations (5-421-1450).
- d. Working containers holding food or food ingredients that are removed from their original packages such as cooking oil, flour, salt, spices, and sugar, shall be identified with the common name of the food (in English and the common language of the food workers). except for containers holding food that can be readily and unmistakably recognized (5-421-480).
- e. Food shall be protected from cross contamination by:
  1. Separating raw animal foods during storage, preparation, holding, and display from
    - a. Raw ready-to-eat food including other raw animal food
    - b. Cooked ready-to-eat food
  2. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, poultry during storage, preparation, holding and display by:
    - a. Using separate equipment for each type of food in equipment
    - b. Preparing each type of food at different times or in separate areas

3. Cleaning equipment and utensils as specified under 5-421-1780 A and sanitizing as specified under 5-421-1900.
  4. Cleaning hermetically sealed containers of food of visible soil before opening. 5-421-470).
- f. Wiping cloths that are used for wiping food spills shall be used for no other purpose. Cloths used for wiping food spills shall be:
1. Dry and used for wiping food spills from tableware and carry-out containers; or
  2. Wet and cleaned as specified under 12 VAC 5-421-1920 D, stored in a chemical sanitizer at a concentration specified in 12 VAC 5-421-3380, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.
  3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution (5-421-570).
- g. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation (5-421-580).
- h. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

Except for units where it is not practical to place a temperature measuring device such as a steam table, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or affixed temperature measuring device that is located to allow easy viewing of the devices temperature display (5-421-1320).

4. Preparation and handling.
  - a. All food preparation shall be done on site or properly transported from an approved or permitted food facility (5-421-640 & 690).
  - b. Only potentially hazardous food requiring limited preparation shall be prepared and served on site, unless extensive preparation can be safely prepared, served, and stored on site.
  - c. Potentially hazardous food, including but not limited to meat, fish, shellfish, poultry, dairy products, eggs, etc., shall be maintained at 41°F or below, or 140°F or above.(5-421-820).
  - d. Food that has been cooked and refrigerated at proper temperature, if reheated, shall be reheated rapidly (within two hours). to 165°F for 15 seconds before service (5-421-750).
  - e. Food temperature measuring devices that are scaled only in Fahrenheit or dually scaled in Fahrenheit and Celsius shall be scaled in 2° increments and accurate to  $\pm 2^\circ\text{F}$  in the intended range use (5-421-1180). Food temperature measuring devices may not have sensors or stems constructed of glass (5-421-1090).
  - g. Precaution shall be taken to minimize food contamination from coughing, sneezing, etc., by consumers. Food on display shall be protected from contamination by the use of packaging, counter, service line, or salad bar food guards, display cases, or other effective means (5-421-650). All cooking and food preparation shall be separated from public access.
  - h. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions (5-421-660).
  - i. Ice for human consumption shall be stored in cleanable, covered, self-draining containers and dispensed with handled scoops, tongs, or other approved methods (5-421-690 & 550).

5. Destruction of Organisms of Public Health Concern (5-421-700).
  - a. Raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:
    1. 145° or above for 15 seconds for:
      - a. Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service
      - b. Except as specified under subdivision A 2 and 3 and subsection B of this section, fish, meat, and pork including game animals commercially raised for food as specified under 12 VAC 5-421-330 A 1 and game animals under a voluntary inspection program as specified in 12 VAC 5-421-330 A 2
    2. 155° F for 15 seconds or the temperature specified in the chart of this section that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food and game animals under a voluntary inspection program; and raw eggs that are not prepared as specified under subdivision 1 a of this subsection
    3. 165°F or above for 15 seconds for poultry, wild game animals as specified under 12 VAC 5-421-330 A 3, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat, or poultry.
  - b. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 140° (5-421-720).
6. Limitations of Growth
  - a. Potentially hazardous food shall be thawed under refrigeration that maintains the food temperature at 41° or as part of the cooking process if the food that is frozen is cooked as specified under 12 VAC 5-421-700 A or B or 5-421-710 or thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or using any procedure if a portion of frozen ready-to-eat food is thawed and prepared

for immediate service in response to an individual consumer's order (5-421-790).

- b. Cooked potentially hazardous food shall be cooled:
  - 1. Within 2 hours, from 140° F to 70°F; and
  - 2. Within 4 hours from 70°F to 41° F
- c. Potentially hazardous food shall be cooled within four hours to 41°F or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna (5-421-800).

**C. Equipment and Utensils**

**1. Materials for Construction**

- a. Materials that are used in the construction of utensils and food-contact surfaces may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:
  - 1. Safe
  - 2. Durable, corrosion resistant, and nonabsorbent
  - 3. Sufficient in weight and thickness to withstand repeated warewashing
  - 4. Finished to have a smooth, easily cleanable surface; and
  - 5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition (5-421-960).
- b. Only plastic bags intended for food storage shall be used and shall be discarded after single-use. Single-service and single-use articles may not be reused (5-421-1750). The use of plastic "garbage/trash" bags as a food storage container is prohibited.

**2. Design and Construction**

- a. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions (5-421-1080).
- b. Multiuse food-contact surfaces shall be:
  - 1. Smooth

2. Free of breaks, open seams, cracks, chips, pits, and similar imperfections;
    3. Free of sharp angles, corners and crevices;
    4. Finished to have smooth welds and joints; and
    5. Accessible for cleaning and inspection (5-421-110).
  - c. Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin (5-421-1260).
  - d. A properly plumbed three compartment sink with hot and cold running water or three containers of adequate size shall be provided for washing, rinsing, and sanitizing food contact surfaces of equipment (5-421-1460). Enough hot water for these purposes shall be provided (5-421-2120). A test kit shall be provided for testing sanitizer concentration (5-421-1530). Off-site cleaning and sanitizing of equipment at a central facility may be approved on an individual basis.
3. Cleaning and Sanitizing of Equipment
- a. Single service utensils shall be required where there is no effective way of cleaning and sanitizing utensils (5-421-1740)
  - b. Equipment food-contact surfaces and utensils shall be sanitized (5-421-1880). Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning (5-421-1890). After cleaning and sanitizing, equipment and utensils shall be air dried (5-421-1960).
  - c. Equipment food-contact surfaces and utensils shall be cleaned to sight and touch. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris (5-421-1780).
  - d. Equipment food-contact surfaces and utensils shall be cleaned:
    1. Before each use with a different type of raw animal food
    2. Each time there is a change from working with raw foods to working with ready-to-eat foods.

3. Between uses with raw fruits and vegetables with potentially hazardous food,
    4. Before using or storing a food temperature measuring device
    5. At any time during the operation when contamination may have occurred (5-421-1780).
  - e. If used with potentially hazardous food equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours (5-421-1780).
4. Storage and handling
  - a. Clean equipment and utensils and single-service and single-use articles shall be stored:
    1. In a clean, dry location;
    2. Where they are not exposed to splash, dust or other contamination; and
    3. At least 6 inches above the floor.
  - b. Clean equipment and utensils shall be stored
    1. In a self-draining position that allows air drying; and
    2. Covered or inverted (5-421-2000).
  - b. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented. Single-service articles that are intended for food-or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser (5-421-2020).

**D. Water, Plumbing and Waste**

1. Water
  - a. Water shall be obtained from an approved source (5-421-2050).
  - b. The water source and system shall be of sufficient capacity to meet the water demands of the food establishment (5-421-2120).

- c. Water shall be received from the source through the use of:
    - 1. An approved public water main; or
    - 2. One or more of the following that shall be constructed, maintained, and operated according to law;
      - a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,
      - b. Water transport vehicles,
      - c. Water containers (5-421-2150)
  - d. A water tank, pump, and hoses shall be flushed and sanitized before being in service after construction, repair, modification, and periods of nonuse (5-421-2460).
  - e. Water meeting the requirements specified under 5-421-2050 through 421-2130 shall be made available for a temporary food establishment without a permanent water supply through:
    - 1. A supply of containers of commercially bottled drinking water;
    - 2. One or more closed portable water containers;
    - 3. An enclosed vehicular water tank;
    - 4. An on-premises water storage tank; or
    - 5. Piping, tubing, or hoses connected to an adjacent approved supply (4-5-421-2160).
2. Plumbing
- a. At least one handwashing lavatory and not fewer than the number required by law shall be provided. If approved, when food exposure is limited employees may use chemically treated nozzettes for handwashing (5-421-2230). An alternative handwashing lavatory may be used, such as a container of tempered water with a dispensing valve and a supply of handcleaner and single use paper towels (5-421-3020 & 3030).
  - b. At least one toilet and not fewer than the toilets required by law shall be provided (5-421-2240). Temporary chemical toilets can be used.

- c. A plumbing system shall be installed to preclude backflow of solid, liquid, or gas contaminants into the water supply system at each point of use at the food establishment (5-421-2260).
  - d. A handwashing facility shall be readily accessible for use by employees in food preparation, food dispensing, and warewashing areas (5-421-2280).
- 3. Sewage and waste
  - a. Sewage shall be disposed through an approved facility that is:
    - 1. A public sewage treatment plant; or
    - 2. An individual sewage disposal system that is sized, constructed, maintained, and operated according to law (5-421-2570).
    - 3. Temporary collection containers for the disposal of wastewater can be provided if they are leak-proof, covered and emptied so as not to create a nuisance.
  - b. Receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leak-proof, and nonabsorbent (5-421-2620).
  - c. A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed (5-421-2650).

**E. Physical Facilities**

- a. In a temporary food establishment a floor may be concrete, if graded to drain, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud.
- b. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris (5-421-2790). An example would be a canvas canopy or plywood roof.
- c. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean

equipment, utensils, and linens; or unwrapped single-service and single-use articles (5-421-2890).

- d. The light intensity shall be 20 foot candles at a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment storage and at least 50 foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders where employee safety is a factor (5-421-3080).
- e. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device and shall be installed so that:
  - 1. The devices are not located over food preparation areas; and
  - 2. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens, and unwrapped single-service and single-use articles (5-421-2910).
- f. A sign or poster that notifies food employees to wash their hands shall be provided and be clearly visible to food employees (5-421-3045).

**F Poisonous or Toxic Materials**

- 1. Labeling and storage
  - a. Chemicals necessary for cleaning and maintenance shall be labeled and stored separate from food and food utensils (5-421-3320 through 3350).
- 2. Use
  - a. Poisonous or toxic materials shall be:
    - 1. Used according to:
      - a. Law and this chapter
      - b. Manufacturer's use directions including labeling, and for pesticide, manufacturer's label instructions that state that the use is allowed in a food establishment,

- c. The conditions of certification, if certification is required, for use of the pest control materials; and
  - d. Additional conditions that may be established by the regulatory authority; and
- 2. Applied so that:
  - a. A hazard to employees or other persons is not constituted and no contamination to food, equipment, utensils, linens, and single-service and single-use articles is prevented
- 3. A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC §136(e), or a person under the direct supervision of a certified applicator (5-421-3360).
- 4. Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 21 CFR 178.1010 (5-421-3380).

**G Premises**

- 1. Live animals may not be allowed on the premises of a food establishment (5-421-3310).
- 2. Animals on display should be prohibited within 50 feet of any temporary food establishment.